

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

WILLIAM LOCKWOOD,

Plaintiff

v.

PACIFIC USA, LTD., PACIFIC CYCLE, LLC
and TOYS "R" US – DELAWARE, INC.

Defendants/Third-Party
Plaintiffs

v.

SR SUNTOUR, INC. and SR SUNTOUR,
USA.

Third-Party Defendants

Civil Action No.

WMN-02-CV-2068

**JOINT MOTION TO VOLUNTARILY DISMISS
THIRD-PARTY CLAIM PURSUANT TO RULE 41**

Defendants/Third-Party Plaintiffs and Third-Party Defendants herein, by and through their undersigned counsel, respectfully request this Court enter an order dismissing the Third-Party claims against SR Suntour, Inc. and SR Suntour USA, pursuant to Rule 41 of the Rules of Civil Procedure, due to the parties reaching an agreement and resolution of the issues set forth therein.

1. On December 18, 2002, this Court, granted Defendants leave to file their Third-Party Complaint against the manufacturer of the allegedly defective bicycle component at issue in this matter.

2. The Defendants/Third-Party Plaintiffs filed their Third-Party Complaint seeking, in relevant part, contribution and indemnification.

3. On March 21, 2003, through its counsel, SR Suntour, Inc. agreed, in general, to indemnify the Defendants/Third-Party Plaintiffs. Due to various issues regarding SR Suntour, Inc.'s insurer and regarding the payment of defense costs, the parties were unable to reach a final mutually acceptable resolution.

4. Third-Party Defendants' counsel advised Defendants'/Third-Party Plaintiffs' counsel via telephonic voicemail on July 25, 2003 and through subsequent communications that SR Suntour, Inc. has now agreed to pay attorney fees and legal expenses, as determined or to be determined by and between SR Suntour, Inc. and Defendants / Third-Party Plaintiffs, to fully indemnify Defendants / Third-Party Plaintiffs for any settlement or for any judgment entered against them in this matter, and that he now has authority to substitute in as counsel for all defendants.

5. Based upon the above stated agreements by SR Suntour, Inc. to defend and fully indemnify Pacific Cycle USA, Ltd, Pacific Cycle, LLC, and Toys "R" Us – Delaware, Inc., these Defendants/Third-Party Plaintiffs respectfully request that this Court dismiss their third-party claims, without prejudice.

Respectfully submitted,



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ORDER

Having considered the parties' Joint Motion to Voluntarily Dismiss Third-Party Claim Pursuant to Rule 41, and having been advised that Third-Party Defendant SR Suntour, Inc. has agreed to pay attorney fees and legal expenses, as determined or to be determined by and between SR Suntour, Inc. and Defendants / Third-Party Plaintiffs, and has agreed to fully indemnify Defendants / Third-Party Plaintiffs for any settlement or for any judgment entered against them in this matter IT IS HEREBY ORDERED that the Defendants' / Third-Party Plaintiffs' claim against Third-Party Defendants is hereby DISMISSED without prejudice.

Date: _____

William M. Nickerson
Senior United States District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of August 2003, a copy of the foregoing Joint Motion to Voluntarily Dismiss Third-Party Claim Pursuant to Rule 41 was sent via electronic filing as per notification to be received from the United States District Court for the District of Maryland North Division.



Michele R. Kendus